

BLACKBURN ENTERPRISES

IBLA 79-255

Decided June 11, 1979

Appeal from decisions of the Wyoming State Office, Bureau of Land Management, declaring 562 mining claims abandoned and void. W MC 14731, etc.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

Under 43 CFR 3833.2-1(b), the owner of unpatented mining claims located after Oct. 21, 1976, in the calendar year 1977, must file affidavits of assessment work or notices of intention to hold the mining claims prior to Dec. 31 of the following calendar year, 1978, or the claims will be conclusively deemed to have been abandoned under 43 CFR 3833.4(a).

APPEARANCES: Donald A. Blackburn, President, Blackburn Enterprises.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

On February 5 and 6, 1979, the Wyoming State Office, Bureau of Land Management (BLM), issued three decisions declaring 562 mining claims held by Blackburn Enterprises (appellant) abandoned and void. 1/ These mining claims had been located in July and August 1977 and recorded with BLM pursuant to section 314(b) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744(b) (1976), in October 1977. BLM held that appellant had failed to file affidavits of assessment work performed in 1978 or, alternatively, notices of intention to hold these claims, prior to December 31, 1978, as required by 43 CFR 3833.2-1(b)(1). A timely notice of appeal was filed from these decisions. We affirm.

1/ See Appendix.

[1] Sections 314(a)(1) and (2) of FLPMA, 43 U.S.C. §§ 1744(a)(1) and (2) (1976), and the pertinent regulation, 43 CFR 3833.2-1(b)(1), require that the owner of an unpatented mining claim located after October 21, 1976, shall, prior to December 31 of each year following the calendar year in which the claim was located, file with BLM evidence of annual assessment work performed during the previous assessment year or a notice of intention to hold the mining claim. Failure to file the required instruments is deemed conclusively to constitute an abandonment of the mining claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4(a). These claims were located after October 21, 1976, in ca Thus, one or the other of the documents had to be filed prior to December 31 of 1978, the year following the calendar year in which the claims were located.

When appellant failed to file either an affidavit or notice of intention, BLM properly held the claims to have been abandoned and declared them void. Juan Munoz, 39 IBLA 72 (1979); Public Service Co. of Oklahoma, 38 IBLA 193 (1978); John R. Carruthers, 38 IBLA 77 (1978); Donald H. Little, 37 IBLA 1 (1978); Donald L. Nordwick, 36 IBLA 238 (1978); Paul S. Coupey, 35 IBLA 112 (1978).

Appellant admits that he failed to meet these requirements, as he was not familiar with them. Unfamiliarity with these statutory and regulatory requirements does not excuse failure to meet them. Juan Munoz, *supra*; John R. Carruthers, *supra*. All persons dealing with the Government are presumed to have knowledge of the relevant statutes and duly promulgated regulations. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Juan Munoz, *supra*. The regulations herein cited were promulgated in the Federal Register at 42 FR 4300 *et seq.* (January 27, 1977).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

James L. Burski
Administrative Judge

APPENDIX

On February 5, 1979, BLM issued a decision declaring the following mining claims abandoned and void:

<u>Serial Number</u>	<u>Claim Name</u>	<u>Date Located</u>	<u>Date Recorded</u>	Mining Claim
W MC 14731-14943	L.B. 1-213	7-28-77	10-25-77	
W MC 14944-15039	L.B. 215-310	7-28-77	10-25-77	
W MC 15040-15095	L.B. 045-0100	7-28-77	10-25-77	
W MC 15096-15141	L.B. 001-0046	7-28-77	10-25-77	
W MC 15142	J.G. 19	8-1-77	10-25-77	
W MC 15143-15210	J.G. 21-88	8-1-77	10-25-77	
W MC 15211	L.B. 214	7-28-77	10-25-77	

On February 6, 1979, BLM issued a decision declaring the following mining claims abandoned and void:

<u>Serial Number</u>	<u>Claim Name</u>	<u>Date Located</u>	<u>Date Recorded</u>	Mining Claim
W MC 15212-15247	L.B. 1-36	8-28-77	10-25-77	

On February 6, 1979, BLM issued another decision declaring the following mining claims abandoned and void.

<u>Serial Number</u>	<u>Claim Name</u>	<u>Date Located</u>	<u>Date Recorded</u>	Mining Claim
W MC 15248-15285	BC 3-40	8-1-77	10-25-77	
W MC 15286-15288	BC 01-03	8-1-77	10-25-77	
W MC 15289	BC 002	8-1-77	10-25-77	
W MC 15290	BC 04	8-1-77	10-25-77	
W MC 15291	BC 06	8-1-77	10-25-77	
W MC 15292	BC 08	8-1-77	10-25-77	

